

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Vladimir Vyrkin,

Plaintiff,

-against-

Triboro Bridge & Tunnel Authority, et al.,

Defendants.

USDC SDNY
DOCUMENT
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DATE FILED: 5/11/2021

1:18-cv-12106 (SDA)

ORDER

STEWART D. AARON, United States Magistrate Judge:

As previously Ordered (4/23/21 Order, ECF No. 65), a remote bench trial in this action shall be conducted via the Microsoft Teams videoconferencing platform commencing on Tuesday, June 15, 2021, at 10:00 a.m. EDT, and continue as needed on Wednesday, June 16, 2021.¹ As addressed during today's telephone conference, it is hereby ORDERED as follows regarding pretrial submissions:

1. Prior to trial, the parties shall serve on one another affidavits or declarations constituting the direct testimony of each of their trial witnesses, except for the direct testimony of an adverse party. The scope of such affidavits or declarations shall be limited to the sole remaining claim in this case, *i.e.*, Plaintiff's § 1983 excessive force claim against Defendant Officer Edwin Cabrera. (See Mem. Opinion & Order, ECF No. 54, at 25.)
2. The *pro se* Plaintiff already has filed two Declarations in this action. (See ECF Nos. 38, 50.) No later than Tuesday, May 18, 2021, Plaintiff shall (a) state in an email to

¹ The Court will send the parties a Teams invite as the trial date approaches.

Defendant that he will rely exclusively on portions of those two Declarations for his direct testimony; (b) email to Defendant an affidavit or declaration to supplement his two prior Declarations and inform Defendant, such that some or all of the two prior Declarations and his supplemental affidavit or declaration shall constitute his direct testimony; or (c) email to Defendant an affidavit or declaration to supersede his two prior Declarations and inform Defendant that he will rely exclusively on this third affidavit or declaration for his direct testimony.²

3. The parties shall meet and confer regarding the exhibits to be offered at trial (including any demonstrative exhibits to be used at trial). No later than Tuesday, May 25, 2021, Defendant shall file a joint letter from the parties, which shall contain (a) a list of any joint exhibits both parties intend to rely on in their cases in chief; (b) a list of any other exhibits Plaintiff intends to rely on in his case in chief; and (c) a list of any other exhibits Defendant intends to rely on in his case in chief. The parties should not include in these lists the two surveillance videos, as to which Plaintiff has reserved his objections. For each exhibit as to which there is an objection, the party objecting must briefly specify, next to the listing for that exhibit, the nature of the party's objection (*e.g.*, authenticity, hearsay). Any objection not listed shall be deemed waived.
4. No later than Tuesday, May 25, 2021, Defendant shall email to the Court's email inbox (Aaron_NYSDChambers@nysd.uscourts.gov) PDF copies of the exhibits listed in the parties' May 25 joint letter.

² To the extent Plaintiff relies on his prior Declarations, the Court only will consider those portions of those Declarations that are relevant to his § 1983 excessive force claim against Officer Cabrera.

5. No later than Tuesday, June 8, 2021, Defendant shall deliver to the Court a thumb drive containing the two surveillance videos.
6. No later than Tuesday, June 8, 2021, Defendant shall email to Plaintiff affidavits and/or declarations constituting the direct testimony of each of Defendant's trial witnesses. Defendant's trial witnesses shall include, at a minimum, Defendant Cabrera himself and the technician who will authenticate the two surveillance videos. If Sergeant Hilda Ellis will not testify as part of Defendant's case in chief, Defendant shall make her available to testify as part of Plaintiff's case in chief.
7. No later than Tuesday, June 8, 2021, Defendant shall file to the ECF docket each of his trial witnesses' affidavits and/or declarations, along with any supplemental or superseding affidavit or declaration that Defendant received from Plaintiff.
8. No later than Tuesday, June 8, 2021, each party may file to the ECF docket a letter, not to exceed three pages, in which he states, in the form of an opening statement, what he contends the evidence to be presented at trial will show regarding the sole remaining claim in this action. Any such letter filed by Defendant also may set forth any objections to the scope of Plaintiff's affidavit and/or declarations; any such objections shall not exceed two pages but will not be counted against the letter's three-page limit. Plaintiff may object to the scope of Defendant's affidavits and/or declarations at trial.

Aside from the submissions discussed above, all pretrial submissions contemplated by the Court's Individual Practices are waived.

SO ORDERED.

Dated: New York, New York
May 11, 2021

A handwritten signature in black ink, reading "Stewart D. Aaron". The signature is written in a cursive style with a horizontal line extending from the end of the name.

STEWART D. AARON
United States Magistrate Judge